

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 129 - SB 446

February 7, 2013

SUMMARY OF BILL: Adds aggravated sexual exploitation of a minor, trafficking for commercial sex acts, patronizing prostitution, and promoting prostitution, to the list of offenses specified in Tenn. Code Ann. § 39–13–528, for which a minor or a law enforcement officer posing as a minor might be solicited.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$41,300/Incarceration*

Assumptions:

- Currently, an adult commits an offense under Tenn. Code Ann. § 39–13–528 if one solicits a person whom the solicitor knows or should know is a minor to engage in conduct that would constitute a violation by the solicitor. Subsection (a) lists nine specific offenses for which a minor might be solicited. Those offenses are rape of a child, aggravated rape, rape, aggravated sexual battery, sexual battery by an authority figure, sexual battery, statutory rape, especially aggravated sexual exploitation of a minor, and sexual activity involving a minor.
- The proposed legislation will include trafficking for commercial sex acts, patronizing prostitution, promoting prostitution, and aggravated sexual exploitation of a minor in the list of offenses specified in Tenn. Code Ann. § 39–13–528(a).
- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2013 is \$64.17.
- According to the DOC, the nine offenses currently listed in Tenn. Code Ann. § 39–13–528(a) have averaged 288.4 admissions each year for the past 10 years, but there has been an average of only 5.3 admissions each year for solicitation of a minor over the last 10 years.
- According to the DOC, trafficking for commercial sex acts, patronizing prostitution, promoting prostitution, and aggravated sexual exploitation of a minor have averaged 14.57 admissions each year over the past 10 years. By applying a similar ratio to the newly added offenses as is currently realized between solicitation of a minor and the nine current offenses in code, it is estimated that adding these offenses to Tenn. Code Ann. § 39–13–528(a) will only slightly increase admissions.
- It is assumed that including trafficking for commercial sex acts, patronizing prostitution, promoting prostitution, and aggravated sexual exploitation of a minor to the list in Tenn.

Code Ann. § 39–13–528(a) will result in one additional admission every three years.

- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will not affect the fiscal impact of this legislation.
- An offender convicted under Tenn. Code Ann. § 39–13–528 is sentenced one classification lower than the most serious crime solicited. A Class B felony is the highest classification at which an offender of the newly added offenses may be sentenced.
- The average time served for a Class B felony is 5.29 years.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9–4–210, is based on one offender every three years serving an additional 5.29 years (1,932.17 days) for a total of \$41,329 $[(\$64.17 \times 1,932.17 \text{ days}) / 3]$.
- Any impact to the District Attorneys General Conference and District Public Defenders Conference can be accommodated within existing resources.
- Any impact to the caseloads of state trial courts can be accommodated within existing judicial resources without an increased appropriation or reduced reversion.

*Tennessee Code Annotated § 9–4–210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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